

Expedited Bill No. 12-12
Concerning: Bond Authorization --
Stormwater Management
Revised: 3/9/2012 Draft No. 1
Introduced: March 20, 2012
Enacted: April 17, 2012
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to authorize the County to issue special limited obligation bonds to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects.

By adding to the Laws of Montgomery County 2012

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

**Sec. 1. The following is added to the Laws of Montgomery County
2012:**

- (a) The County may at any time and from time to time sell in one or more series an aggregate principal amount not to exceed \$95,000,000 in special limited obligation bonds (the “Bonds”) authorized under the authority of Section 5(P)(2) of Article 25A of the Maryland Code Title 4 of the Environmental Article of the Maryland Code (“Title 4”), as amended and Chapter 19 of the County Code, as amended to finance the planning, design, acquisition, and construction of stormwater management facilities and related projects as approved in the County’s Capital Improvements Program.
- (b) The Bonds are special limited obligations of the County and must not constitute a pledge of the full faith and credit and unlimited taxing power of the County. The Bonds must be payable by the County from its water quality protection charges authorized to be imposed on certain real property in the County under Title 4 and Section 19-35 of the County Code (the “Water Quality Protection Charge”) and deposited into the stormwater management fund (the “Fund”). To pay the interest and redeem and pay the Bonds authorized by this Act as they respectively mature, the County must impose the Water Quality Protection Charge in each fiscal year in an amount sufficient to provide for the payment, when due, of the principal of and interest on all Bonds maturing in each fiscal year and all other costs and expenses authorized for payment and determined to be paid by the County from the Fund in that fiscal year under Chapter 19. If the revenue derived from the Water Quality Protection Charge imposed in any fiscal year proves inadequate for the listed purposes, additional charges must be

imposed in the next fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on the Bonds and such other costs and expenses any other funds legally available and deposited to the Fund. To the extent such funds are received or are receivable in any fiscal year, the amount of the Water Quality Protection Charge required to be imposed may be reduced accordingly.

(c) The Bonds may be sold for a price at or above par, plus accrued interest to the date of delivery. The County Executive may sell the Bonds through a public sale or through a private (negotiated) sale without solicitation of competitive bids, as the County Executive by executive order after consulting the Director of Finance finds to be in the best interests of the County. Any sale of the Bonds by private negotiation is for the County's best interest.

(d) In accordance with this Act, the County Executive may determine by Executive Order, for each Bond or series of Bonds issued under this Act, all matters relating to the sale, issuance, delivery and payment of the Bonds, including the purposes for which the Bonds are issued, the date or dates of sale of the Bonds, the designation of the Bonds, the date of delivery of the Bonds, the authorized denominations for the Bonds, the redemption provisions, if any, pertaining to the Bonds, the manner of authentication and numbering of the Bonds, the date from which interest on the Bonds accrues, the rate or rates of interest borne by the Bonds or the method of determining the rates, the interest payment and maturity dates of the Bonds, including provisions for mandatory sinking fund redemption of any term bonds, the forms of the Bonds, whether the Bonds are to be issued in book-entry form and

all matters incident to the issuance of Bonds in book-entry form, and the provisions for the registration of Bonds. The execution and delivery of Bonds is conclusive evidence of the approval of all terms and provisions of the Bonds on behalf of the County.

(e) Except as otherwise provided in an Executive Order, the Bonds must be executed in the name of the County and on its behalf by the County Executive, whose signature may be by facsimile; an original or facsimile of the official seal of the County must be imprinted or otherwise reproduced thereon, attested by the manual or facsimile signature of the Director of Finance, and authenticated by the manual or facsimile signature of the Paying Agent/Registrar or any designated signer.

(f) The County hereby covenants that if the County Executive decides to issue the Bonds as tax-exempt bonds or bonds that must comply with regulations regarding tax-exempt bonds, the County will take, or refrain from taking, all actions necessary to comply with Section 103 and Sections 141 through 150 of the Internal Revenue Code, applicable to the Bonds issued as tax-exempt bonds to preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the covenant in the preceding sentence: (1) the County must not use or permit the use of any proceeds of the Bonds issued as tax-exempt bonds or any funds of the County in a manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes; (2) the County must regulate the investment of the proceeds of the Bonds so as not to cause any of the Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Internal

Revenue Code and the Income Tax Regulations thereunder; (3) the County must, if and to the extent necessary, make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America; (4) the County must prepare and timely file Internal Revenue Service Form 8038-G and 8038-B, Information Return for Tax-Exempt Governmental Obligations; and (5) the County Executive or the Executive designee must prepare and execute and certify any other document required to assure compliance with the applicable provisions of Section 103 and Sections 141 through 150 of the Internal Revenue Code, and the Income Tax Regulations thereunder.

The County Executive may take any actions necessary or desirable to assure that any Bonds authorized by this Act are allowed a tax credit, that the County is entitled to a subsidy from the United States or any agency or instrumentality thereof with respect to such Bonds or the interest payable thereon, or the interest thereon is entitled to any other available benefits under the Internal Revenue Code, as amended.

- (g) In connection with the issuance of any Bonds under this Act, the County may enter into one or more agreements as the County Executive finds necessary or appropriate for the issuance, sale, delivery or security of the Bonds, which may include: (1) underwriting, purchase or placement agreements for Bonds sold at private (negotiated) sale in accordance with this Act; (2) trust agreements with commercial banks or trust companies for the issuance and security of the Bonds; (3) any dealer, remarketing or similar agreements for the placement or remarketing of the Bonds; (4) agreements for any credit or liquidity facilities supporting any Bonds;

(5) agreements with commercial banks or trust companies for the deposit of proceeds of any Bonds; (6) agreements with fiscal agents for the issuance of Bonds, their authentication, registration or payment or other similar services; and (7) continuing disclosure agreements, including any agreement required to enable the underwriters of any Bonds to meet the requirements of paragraph (b)(5) of Rule 15c2-12 issued by the Securities and Exchange Commission. Each such agreement must take the form determined by the County Executive by Executive Order.

(h) The County Executive, the Chief Administrative Officer, the County Attorney, the Director of Finance and the Clerk of the Council, on behalf of the County, may execute all instruments and otherwise take any action necessary to carry out the authority conferred by this Act.

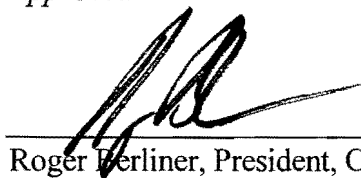
(i) The issuance and sale of any bonds under this Act are exempt from the provisions of Article 31, Sections 9, 10, and 11 of the Maryland Code.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

129 *Approved:*

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Roger Berliner, President, County Council

4/17/2012

Date

131 *Approved:*

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Isiah Leggett, County Executive

Date

133 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date